IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 26.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.25928 of 2016 &
W.M.P.No.22171 of 2016

M/s.Seagul Nuts N Spices,
Rep. by its Partner,
Mr.S.Prasad, 543, Kumbakonam road,
Pancikankuppam Post,
Panruti-607 106. ... Petitioner

Vs

1. The Commercial Tax Officer,
Panruti Rural Assessment Circle,
Panruti.

2. The Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai-600 005 ... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified mandamus to call for the impugned proceedings of the first respondent in TIN 33094501327/2015-2016 and quash the impugned order dated 23.05.2016 as passed contrary to the provisions of the TNVAT Act and the Circular No.26/2014 dated 16.06.2014 issued by the second respondent and further direct the first respondent to pass a fresh order in accordance with law under the provisions of the Central Sales Tax Act after considering "Passed" Status Report found in the e-Transit pass System of the Tamil Nadu Government Commercial Taxes Department Website and the E Way Bills and e-C Forms issued by the buyers in other State to prove that the goods covered by the 'e' transit passes had actually crossed the borders of Tamil Nadu State.

For Petitioner : Mr.P.Rajkumar
For Respondents : Mr.Manokaran Sundaram
Addl. Government Pleader

O R D E R

Heard Mr.P.Rajkumar, learned counsel for the petitioner and Mr.S.Manokaran Sundaram, learned Additional Government Pleader appearing for the respondents. With the consent of the learned counsel appearing on either side, the Writ Petition itself is taken up for final disposal.

2.The petitioner who is a registered dealer under the provisions of the Central Sales Tax Act and Tamilnadu Value Added Tax Act, has filed this Writ Petition, challenging the assessment order dated 23.05.2016.

3.Though several grounds were raised by the petitioner and elaborate submissions were made on the factual aspects, this Court is not convinced to entertain the Writ Petition for the simple reason that all the contentions raised by the petitioner are factual. That apart, though pre-revision notice was issued on 30.03.2016 and received by the petitioner, the petitioner has not cared to submit his reply and after having failed to file the reply before the Assessing Officer, has now cannot come before this Court and raise factual and legal issues.

4.Therefore, this is not a case of violation of principles of natural justice and non-application of mind on the part of the respondent, but it is a clear case where the petitioner has failed to avail the opportunity granted to him and has remained dormant. Therefore, the petitioner cannot maintain this Writ Petition, challenging the impugned assessment order.

5.The learned Additional Government Pleader, pointed out that the entire transaction is a bogus transaction. That apart, it is seen that though the petitioner is dealer in phenyl, it is surprising to note that he is engaged in the transaction with regard to cashew shell oil and other materials.

6. In the light of the above the Writ Petition is dismissed as not maintainable. However, liberty is granted to the petitioner file an Appeal before the Appellate Authority and if such Appeal is filed within a period of thirty days from the date of receipt of a copy of this order, the Appellate Authority shall entertain the Appeal, without reference to the limitation. No costs. Consequently, connected Miscellaneous Petition is closed.

r n s

-s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

1. The Commercial Tax Officer,
Panruti Rural Assessment Circle,
Panruti.

2. The Commissioner of Commercial Taxes,
   Ezhilagam, Chepauk,
   Chennai-600 005.

+ 1 cc to Mr.P.Rajkumar, Advocate SR 42195

+ 1 cc to Spl. Govt.Pleader SR 42229

svi(co)
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